

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CASSIUS M. CLAY, SR.,

Plaintiff,

v.

DOMESTIC RELATIONS SECTION, et al.,

Defendants.

Civil Action No. 05-125 Erie

MEMORANDUM ORDER

This action was received by the Clerk of Court on April 28, 2005 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 104], filed on January 9, 2008, recommended that Defendants' partial motion for summary judgment [Doc. No. 92] be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. Objections were filed by Defendants on January 14, 2008 [Doc. No. 105]. In their Objections, the Defendants move for summary judgment for the first time on Plaintiff's retaliation claim. This argument was not raised before the Magistrate Judge. To put this case back on the proper procedural footing, the retaliation issue should be addressed by the Magistrate Judge in the first instance. Plaintiff filed an Answer to Defendants' Objections on January 31, 2008 [Doc. No. 106], and filed Objections on February 1, 2008 [Doc. No. 107]. After de novo review of the motion and documents in the case, together with the objections, response to the objections and Report and Recommendation, the following order is entered:

AND NOW, this 5th day of February, 2008;

IT IS HEREBY ORDERED that Defendants' partial motion for summary judgment [Doc. No. 92] is GRANTED.

The Report and Recommendation [Doc. No. 104] of Magistrate Judge Baxter,

filed on January 9, 2008, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge